1947.

File No. Indian Independence II/47

Legal **DEPARTMENT**

B **BRANCH**

Subject:—

Rules and Notifications under the Indian Independence Act, 1947.

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Sr. No.	Compilation No.	Subject.	Pages.
		Rules and Notifications under the Indian Independence Act, 1947.	
1.	C.No.10476, dt.1-11-47.	Whether the power and jurisdiction of Crown Representative, over seven Indian States viz. Estates of God, Palajpur, Morvad, Rajpipla, Mahisa, Porda and Dama lapses after 15th August 1947 and consequently whether the notification No.161-P of 3rd July 1947 is effective after that date.	1-3.

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Office of the R.L.A.

As a result of the agency arrangements made under section 237 of the Government of India Act, 1935, between the Crown Representative and the Governor of Bombay (see pp.197 and 209 ante) the Crown Representative issued a notification on 3rd July 1947 under the Indian (Foreign Jurisdiction) Order in Council, 1937 and of all other powers enabling him in that behalf directing that all laws for the time being in force in certain districts of the Province of Bombay (districts of Ahmedabad and Kaira) shall subject to such exceptions and modifications, if any, as may from time to time be specified by the Crown Representative in this behalf be in force in the Estates of Ged, Polajpur, Morvad, Maprupur, Mahisa, Porda and Dana and that criminal and civil jurisdiction within the Estates shall be exercised by certain officers and Courts. Since the Crown Representative issued the above notification the position has materially changed by the Passing of the Indian Independence Act, 1947. Under clause (b) of section 7 of that Act as from 15th August 1947 the suzerainty of His Majesty over the Indian States lapses, and with it, all treaties and agreements in force at the date of the passing of the Act between His Majesty and the rulers of Indian States, all functions exercisable by His Majesty at that date with respect to Indian States, all obligations of His Majesty existing at that date towards Indian States or the rulers thereof, and all powers, rights, authority or jurisdiction exercisable by His

Majesty at that date ex in or in relation to Indian States by treaty, grant, usage, sufferance or otherwise. Under the proviso to this section effect has to be continued to be given as nearly as may be to the provisions of any such agreement as is referred to which relate to customs, transit and communications, posts and telegraphs, or other like matters, until the provisions in question are denounced by the ruler of the Indian State or by the Dominion or Province. In view of the provisions of section 7 of the Act, the India (Provisional Constitution) Order, 1947 which has been made under clause (c) of section 9 of the Act has omitted sections 2 and 287 of the Government of India Act, 1935. The resultant position is that the Crown Representative no longer exercises any power and jurisdiction over Indian States which before 15th August 1947 were exercisable by him by virtue of the Indian (Foreign Jurisdiction) Order, 1937. The seven Estates referred to above are presumably Indian States within the meaning of section 7 of the Indian Independence Act, 1947 and that being so, the Crown Representative's power and their ~~hate~~ jurisdiction over these Estates has lapsed along with His Majesty's Notification No.161-P of 3rd July 1947 at page 249 ante as also Notification No.162-P dated 3rd July 1947 at page 253 ante issued by the Crown Representative under the Indian (Foreign Jurisdiction) Order have consequently become ineffective from 15th August 1947. In view of the position stated above the question raised by Revenue Department at page 325 ante do not survive.

Attention of the Revenue Department is, however, invited to the Extra-Provincial Jurisdiction Ordinance, 1947, recently made by the Governor General. Revenue

Department should ascertain whether the Central Government has, as contemplated in the Ordinance, any extra-provincial jurisdiction over the Estates in question and if so, whether that Government has taken any action thereunder.

Sd. P.N.Lad,
31/10
Remembrancer of Legal Affairs.

U.O.No. R.D.,No.10476, dated the 1st November 1947.

MRP.
15/6/56.